

HOUSE JOURNAL

SEVENTY-EIGHTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

FIFTY-THIRD DAY — TUESDAY, APRIL 22, 2003

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 304).

Present — Mr. Speaker; Allen; Alonzo; Bailey; Baxter; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Telford; Thompson; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wise; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Absent, Excused — Berman; Isett; Wilson.

The invocation was offered by Dr. Jim Haskell, pastor, First Baptist Church, Georgetown, as follows:

Our dear Heavenly Father, we appeal to you today during a time of great challenge. But we remember that you are a God who has led your people to overcome challenges throughout the ages. We need you as we engage those who desire to harm us here and in lands far from here. We need you as we encourage those who have been hit by the hard fist of the economy. We need you as we entrust funds to those areas that create desired life experiences and expressions. There is so much to do and so little with which to do it! Grant us your wisdom, God. Keep us from taking a path that is expedient but eventually much more expensive.

Father, I pray for these men and women in this house set aside for representation that they represent what is good, that which is right, and that which is compassionate. And as you remind us in your word, I pray that they will be good servants by seeking your guidance thereby affirming their dependence on the infinite rather than the finite.

As I think today about these dedicated men and women and what they must sacrifice in their quest to serve and represent us, my heart resonates with the words prayed by the Apostle Paul almost two thousand years ago when he petitioned, "I pray that out of his glorious riches he may strengthen you with power through his spirit in your inner being, so that Christ may dwell in your hearts through faith. And I pray that you, being rooted and established in love, may have power, together with all the saints, to grasp how wide and long and high and deep is the love of Christ, and to know this love that surpasses knowledge—that you may be filled to the measure of all the fullness of God. Now to him who is able to do immeasurably more than all we ask or imagine, according to his power that is at work within us, to him be glory in the church and in Christ Jesus throughout all generations, forever and ever! Amen." (Ephesians 3:16-21)

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for today because of important business in the district:

Isett on motion of Flynn.

Wilson on motion of Y. Davis.

The following member was granted leave of absence temporarily for today because of important business:

Berman on motion of Eissler.

CAPITOL PHYSICIAN

The speaker recognized Representative Phillips who presented Dr. James Froelich of Bonham as the "Doctor for the Day."

The house welcomed Dr. Froelich and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

(Hardcastle in the chair)

HR 723 - ADOPTED

(by Wong, Van Arsdale, Harper-Brown, Laubenberg, and Baxter)

Representative Wong moved to suspend all necessary rules to take up and consider at this time **HR 723**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 723, Congratulating Jody Conradt of The University of Texas on her 800th career coaching win.

HR 723 was adopted without objection.

INTRODUCTION OF GUESTS

The chair recognized Representative Wong who introduced Coach Jody Conradt and representatives from The University of Texas.

HR 850 - ADOPTED (by Hunter)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 850**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 850, Congratulating the students who are the Young Heroes of Texas.

HR 850 was read and was adopted without objection.

HR 851 - ADOPTED (by Hunter)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 851**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 851, Welcoming the members of the Rotary International Group Study Exchange Team from Brazil.

HR 851 was adopted without objection.

HR 843 - ADOPTED (by Quintanilla)

Representative Quintanilla moved to suspend all necessary rules to take up and consider at this time **HR 843**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 843, Honoring the ESL Gifted and Talented Program at Socorro High School for its hard work.

HR 843 was adopted without objection.

HR 844 - ADOPTED (by Quintanilla)

Representative Quintanilla moved to suspend all necessary rules to take up and consider at this time **HR 844**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 844, Honoring recipients of the Longhorn Opportunity Scholarships and the President's Achievement Scholarships given by The University of Texas at Austin.

HR 844 was adopted without objection.

HR 858 - ADOPTED
(by Naishtat)

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HR 858**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 858, Congratulating the Texas Army National Guard on winning the 2002 Secretary of the Army Environmental Award for Cultural Resources Management.

HR 858 was adopted without objection.

PROCLAMATION BY THE GOVERNOR
OF THE STATE OF TEXAS

The chair laid before the house and had read the following proclamation by the governor:

Texans love the thrill of competition. Our admiration of athletic skill is matched only by our respect for the determination of athletes in their quest for excellence.

Since its inception in 1968, the athletes of the Special Olympics have inspired greatness in us all through their display of true grit and unwavering enthusiasm. These games also have a profound effect on competitors, encouraging health, personal growth, and self-confidence. Furthermore, the spirit of the Special Olympics—skill, courage, sharing, and joy—incorporates universal values that transcend all boundaries of geography, nationality, political philosophy, gender, age, race, or religion.

Critical to each Special Olympics are the thousands of volunteers, coaches, and families who devote their time and talents to stage this remarkable event. Through their efforts, they give many the opportunity to develop physical skills, demonstrate courage, experience joy, and share treasured moments with their families, other athletes, and their community.

"Let me win. But if I cannot win, let me be brave in the attempt." This oath, taken by all Special Olympics competitors, embodies the courage and drive of each participant. At this time, therefore, I urge all Texans to recognize the numerous athletes and volunteers of the Special Olympics as they gather in Ireland for the 2003 games.

Therefore, I, Rick Perry, Governor of Texas, do hereby proclaim April 22, 2003, Special Olympics Day in Texas, and urge the appropriate recognition whereof.

In official recognition whereof, I hereby affix my signature this 17th day of April, 2003.

Rick Perry
Governor of Texas

(SEAL)

HR 806 - ADOPTED
(by Hamric)

Representative Hamric moved to suspend all necessary rules to take up and consider at this time **HR 806**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 806, Honoring Team Texas, selected by Special Olympics Texas to join Team USA at the Special Olympics World Summer Games.

HR 806 was read and was adopted without objection.

(Berman now present)

HR 88 - ADOPTED
(by Haggerty)

Representative Haggerty moved to suspend all necessary rules to take up and consider at this time **HR 88**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 88, Congratulating Michael and Michelle Ingersoll on the birth of their son and recognizing Matthew Ryan Ingersoll as an honorary Texan.

HR 88 was read and was adopted without objection.

HR 391 - ADOPTED
(by Hilderbran)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 391**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 391, In memory of Joe Burkett, Jr., of Kerrville.

HR 391 was unanimously adopted by a rising vote.

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Edwards and by unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

**PROVIDING FOR A CONGRATULATORY
AND MEMORIAL CALENDAR**

Representative Edwards moved to set a congratulatory and memorial calendar for 9 a.m. Friday, April 26.

The motion prevailed without objection.

HB 3599 - PERMISSION TO INTRODUCE

Representative Kuempel requested permission to introduce and have placed on first reading **HB 3599**.

A record vote was requested.

Permission to introduce was granted by (Record 305): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Telford; Thompson; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wise; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker; Hardcastle(C).

Absent, Excused — Isett; Wilson.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

**HB 1349 ON SECOND READING
(by Uresti)**

HB 1349, A bill to be entitled An Act relating to developing and coordinating certain agency services and activities involving mental health care for young children.

HB 1349 was read second time on April 8 and was postponed until 10 a.m. today.

Representative Wohlgemuth moved to postpone consideration of **HB 1349** until the end of today's calendar.

The motion prevailed without objection.

SB 240 ON SECOND READING
(Wohlgemuth - House Sponsor)

SB 240, A bill to be entitled An Act relating to the enrollment of certain children and recipients of medical assistance in group health benefit plans.

SB 240 was considered in lieu of **HB 1118**.

SB 240 was read second time and was passed to third reading.

HB 1118 - LAID ON THE TABLE SUBJECT TO CALL

Representative Wohlgemuth moved to lay **HB 1118** on the table subject to call.

The motion prevailed without objection.

HB 2042 ON SECOND READING
(by Marchant, et al.)

HB 2042, A bill to be entitled An Act relating to enforcement of conduct and other matters concerning a security; providing a penalty.

HB 2042 was read second time on April 8 and was postponed until 11 a.m. today.

Representative Geren moved to postpone consideration of **HB 2042** until 11:15 a.m. today.

The motion prevailed without objection.

SB 572 ON SECOND READING
(Hartnett, Menendez, and Naishtat - House Sponsors)

SB 572, A bill to be entitled An Act relating to the euthanasia of an animal by an animal shelter; providing criminal penalties.

SB 572 was considered in lieu of **HB 1115**.

SB 572 was read second time.

Amendment No. 1

Representative Hartnett offered the following amendment to **SB 572**:

Amend **SB 572** in SECTION 1 of the bill, in proposed Section 821.055, Health and Safety Code (House Committee Printing, page 3, between lines 18 and 19), by inserting proposed Subsection (d) to read as follows:

(d) Notwithstanding Subsection (a), an employee of an animal shelter is not required to have successfully completed the training course before the 120th day following the date of initial employment.

Amendment No. 1 was adopted without objection.

SB 572, as amended, was passed to third reading.

HB 1115 - LAID ON THE TABLE SUBJECT TO CALL

Representative Hartnett moved to lay **HB 1115** on the table subject to call.

The motion prevailed without objection.

HR 852 - ADOPTED

(by Woolley)

Representative Woolley moved to suspend all necessary rules to take up and consider at this time **HR 852**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 852, Welcoming the fifth-grade class from Spring Branch Independent School District's Frostwood Elementary School to the State Capitol.

HR 852 was adopted without objection.

HB 2042 ON SECOND READING

(by Marchant, et al.)

HB 2042, A bill to be entitled An Act relating to enforcement of conduct and other matters concerning a security; providing a penalty.

HB 2042 was read second time on April 8, postponed until 11 a.m. today, and was again postponed until 11:15 a.m. today.

Representative Marchant moved to postpone consideration of **HB 2042** until 1:30 p.m. Tuesday, April 29.

The motion prevailed without objection.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Goolsby on motion of McCall.

HB 1316 ON SECOND READING

(by Callegari, et al.)

HB 1316, A bill to be entitled An Act relating to the service area of the North Harris Montgomery Community College District.

HB 1316 was read second time on April 10 and was postponed until 11 a.m. today.

Representative Callegari moved to postpone consideration of **HB 1316** until 11 a.m. Tuesday, April 29.

The motion prevailed without objection.

MAJOR STATE CALENDAR**HOUSE BILLS****SECOND READING**

The following bills were laid before the house and read second time:

CSHB 1567 ON SECOND READING
(by West, Chisum, and W. Smith)

CSHB 1567, A bill to be entitled An Act relating to the disposal of low-level radioactive waste; authorizing the exercise of the power of eminent domain.

CSHB 1567- POINT OF ORDER

Representative Burnam raised a point of order against further consideration of **CSHB 1567** under Rule 8, Section 1 of the House Rules on the grounds that the caption does not give the legislature and the public reasonable notice of the subject of the proposed measure.

(Speaker in the chair)

The point of order was withdrawn.

Representative West moved to postpone consideration of **CSHB 1567** until 1:00 p.m. today.

The motion prevailed without objection.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 17).

FIVE DAY POSTING RULE SUSPENDED

Representative Lewis moved to suspend the five day posting rule to allow the Committee on County Affairs to consider **HB 2847**.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Financial Institutions, upon lunch recess today, Desk 7, for a formal meeting, to consider pending business.

Licensing and Administrative Procedures, upon lunch recess today, Desk 99, for a formal meeting, to consider pending business.

RECESS

Representative Woolley moved that the house recess until 1:00 p.m. today.

The motion prevailed without objection.

The house accordingly, at 11:27 a.m., recessed until 1:00 p.m. today.

AFTERNOON SESSION

The house met at 1:00 p.m. and was called to order by the speaker.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

CSHB 1567 ON SECOND READING (by West, Chisum, and W. Smith)

CSHB 1567, A bill to be entitled An Act relating to the disposal of low-level radioactive waste; authorizing the exercise of the power of eminent domain.

CSHB 1567 was read second time earlier today and was postponed until 1:00 p.m. today.

CSHB 1567- POINT OF ORDER

Representative Burnam raised a point of order against further consideration of **CSHB 1567** under Rule 8, Section 1 of the House Rules on the grounds that the caption does not give the legislature and the public reasonable notice of the subject of the proposed measure.

MEMORANDUM BY REPRESENTATIVE BURNAM

The bill does not give notice that it creates a new class of waste.

The bill's caption must give members and the public reasonable notice of the bill's content. H. Rule 8 § 1(1). The caption requirement is important because both use the caption as a handy reference point to determine if the bill needs further inquiry.

SECTION 4 amends Chapter 401, Health & Safety Code, and would insert a new provision that would permit a licensee to accept mixed waste, which means low-level radioactive waste mixed with hazardous waste, as that term is defined in Chapter 361, Health & Safety Code. Hazardous waste means "solid waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Section 6901 et seq.)." Health & Safety Code § 361.003.

Mixed waste is a new class of waste, combining two different types of waste. It follows that it is neither hazardous waste alone, nor is it low-level radioactive waste. The caption should give notice that a new class of waste is being created, to be handled by persons differently permitted than under Chapter 361.

For the foregoing reasons, the point of order should be sustained.

POINT OF ORDER DISPOSITION

The speaker overruled the point of order, speaking as follows:

Mr. Burnam raises a point of order against further consideration of **CSHB 1567** under Rule 8, Section 1, in that the caption is insufficient notice of the bill's provisions that allow the disposal of mixed waste with low-level radioactive waste. The rule requires a caption that gives "reasonable notice of the subject" of the bill. It is well established that a caption need not detail the elements of the bill. In the opinion of the chair, the caption is sufficient.

Accordingly, the point of order is respectfully overruled.

Amendment No. 1

Representative West offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** on page 7, line 15, by striking "waste manifest is signed" and substituting "acceptance criteria specified in the license have been satisfied".

(Bonnen in the chair)

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Chisum offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** as follows:

(1) On page 1, line 5, between "(d)," and "and", insert "(e),".

(2) On page 1, strike line 17 and substitute "the [~~radiation and~~] perpetual care account [fund]; and".

(3) On page 2, between lines 2 and 3, insert:

(e) Money expended from the [~~radiation and~~] perpetual care account [fund] to respond to accidents involving low-level radioactive waste must be reimbursed to the [~~radiation and~~] perpetual care account [fund] by the responsible shipper or transporter according to rules adopted by the board.

(4) On page 37, lines 8 and 9, strike "radiation and perpetual care fund" and substitute "perpetual care account".

(5) On page 37, lines 14 and 15, strike "radiation and perpetual care fund" and substitute "[~~radiation and~~] perpetual care account [fund]".

(6) Insert the following appropriately numbered sections and renumber subsequent sections accordingly:

SECTION ____. Section 401.003(11), Health and Safety Code, is amended to read as follows:

(11) "Perpetual care account" [~~"Fund"~~] means the radiation and perpetual care account [fund].

SECTION ____. Section 401.109(a), Health and Safety Code, is amended to read as follows:

(a) The department or commission may require a holder of a license issued by the agency to provide security acceptable to the agency to assure performance of the license holder's obligations under this chapter. The department or commission shall deposit security provided under this section to the credit of the perpetual care account.

SECTION ____. Section 401.152(b), Health and Safety Code, is amended to read as follows:

(b) The agency shall use the security provided by the license holder to pay the costs of actions that are taken or that are to be taken under this section. The agency shall send to the comptroller a copy of its order together with necessary written requests authorizing the comptroller to:

- (1) enforce security supplied by the license holder;
- (2) convert an amount of security into cash, as necessary; and

(3) disburse from the security in the perpetual care account [~~fund~~] the amount necessary to pay the costs.

SECTION _____. Section 401.270(e), Health and Safety Code, is amended to read as follows:

(e) The department shall use the security provided by the license holder to pay the costs of actions that are taken or that are to be taken under this section. The department shall send to the comptroller a copy of its order together with necessary written requests authorizing the comptroller to:

- (1) enforce security supplied by the licensee;
- (2) convert an amount of security into cash, as necessary; and

(3) disburse from the security in the perpetual care account [~~fund~~] the amount necessary to pay the costs.

SECTION _____. Section 401.301(d), Health and Safety Code, is amended to read as follows:

(d) The department may require that each person who holds a specific license issued by the department annually pay to the department an additional five percent of the appropriate annual fee set under Subsection (b). Fees collected under this subsection shall be deposited to the credit of the [~~radiation and~~] perpetual care account [~~fund~~]. The fees are not refundable.

SECTION _____. Section 401.303(g), Health and Safety Code, is amended to read as follows:

(g) If a license holder satisfies the obligations under this chapter, the issuing agency shall have the comptroller promptly refund to the license holder from the perpetual care account [~~fund~~] the excess of the amount of all payments made by the license holder to the issuing agency and the investment earnings of those payments over the amount determined to be required for the continuing maintenance and surveillance of land, buildings, and radioactive material conveyed to the state.

SECTION _____. Section 401.305, Health and Safety Code, is amended to read as follows:

Sec. 401.305. RADIATION AND PERPETUAL CARE ACCOUNT [~~FUND~~]. (a) The radiation and perpetual care account is an account in the general revenue fund [~~is in the state treasury~~].

(b) The department and commission each shall deposit to the credit of the perpetual care account [~~fund~~] money and security they receive under this chapter, including an administrative penalty collected by the department under Sections 401.384-401.390 but excluding fees collected under Sections 401.301(a)-(c) and 401.302. Interest earned on money in the perpetual care account [~~fund~~] shall be credited to the perpetual care account [~~fund~~].

(c) Money and security in the perpetual care account [~~fund~~] may be administered by the department or commission only for the decontamination, decommissioning, stabilization, reclamation, maintenance, surveillance, control, storage, and disposal of radioactive material for the protection of the public health and safety and the environment under this chapter and for refunds under Section 401.303.

(d) Money and security in the perpetual care account [~~fund~~] may not be used for normal operating expenses of the department or commission.

(e) The department may use money in the perpetual care account [~~fund~~] to pay for measures:

(1) to prevent or mitigate the adverse effects of abandonment of radioactive materials, default on a lawful obligation, insolvency, or other inability by the holder of a license issued by the department to meet the requirements of this chapter or department rules; and

(2) to assure the protection of the public health and safety and the environment from the adverse effects of ionizing radiation.

(f) The department may provide, by the terms of a contract or lease entered into between the department and any person or by the terms of a license issued by the department to any person, for the decontamination, closure, decommissioning, reclamation, surveillance, or other care of a site or facility subject to department jurisdiction under this chapter as needed to carry out the purpose of this chapter.

(g) The existence of the [~~radiation and~~] perpetual care account [~~fund~~] does not make the department liable for the costs of decontamination, transfer, transportation, reclamation, surveillance, or disposal of radioactive material arising from a license holder's abandonment of radioactive material, default on a lawful obligation, insolvency, or inability to meet the requirements of this chapter or department rules.

SECTION ____ . Section 401.342(b), Health and Safety Code, is amended to read as follows:

(b) The attorney general may petition the court for:

(1) an order enjoining the act or practice or an order directing compliance and reimbursement of the perpetual care account [~~fund~~], if applicable;

(2) civil penalties as provided by Section 401.381; or

(3) a permanent or temporary injunction, restraining order, or other appropriate order if the department shows that the person engaged in or is about to engage in any of the acts or practices.

SECTION ____ . Section 401.343(a), Health and Safety Code, is amended to read as follows:

(a) The department shall seek reimbursement, either by an order of the department or a suit filed by the attorney general at the department's request, of security from the perpetual care account [~~fund~~] used by the department to pay for actions, including corrective measures, to remedy spills or contamination by radioactive material resulting from a violation of this chapter relating to an activity under the department's jurisdiction or a rule, license, registration, or order adopted or issued by the department under this chapter.

SECTION ____ . Section 7.033, Water Code, is amended to read as follows:

Sec. 7.033. RECOVERY OF SECURITY FOR CHAPTER 401, HEALTH AND SAFETY CODE, VIOLATION. The commission shall seek reimbursement, either by a commission order or by a suit filed under Subchapter D by the attorney general at the commission's request, of security from the radiation and perpetual care account [~~fund~~] used by the commission to pay for

actions, including corrective measures, to remedy spills or contamination by radioactive material resulting from a violation of Chapter 401, Health and Safety Code, relating to an activity under the commission's jurisdiction or a rule adopted or a license, registration, or order issued by the commission under that chapter.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Chisum offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** on page 5, line 25, between "access" and "to" by inserting ", including slant drilling and subsurface mining,"

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Chisum offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** as follows:

(1) On page 4, line 10, strike "authorized by" and substitute "licensed under".

(2) On page 6, line 21, strike "authorized" and substitute "licensed".

(3) On page 6, line 25, strike "authorized" and substitute "licensed".

(4) On page 6, line 27, strike "authorized" and substitute "licensed".

(5) On page 7, line 8, strike "authorization" and substitute "license".

(6) On page 11, line 5, strike "authorize" and substitute "license".

(7) On page 11, line 7, strike "authorize" and substitute "license".

(8) On page 11, line 24, strike "authorize" and substitute "license".

(9) On page 28, line 18, strike "authorized" and substitute "licensed".

(10) On page 30, line 6, strike "authorized" and substitute "licensed".

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative J. Jones offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** as follows:

(1) On page 1, line 5, strike "401.052(c)" and substitute "401.052(b), (c)".

(2) On page 1, between lines 6 and 7, insert the following:

(b) Rules adopted under this section for low-level radioactive waste must [~~shall~~]:

(1) to the extent practicable, be compatible with United States Department of Transportation and United States Nuclear Regulatory Commission regulations relating to the transportation of low-level radioactive waste;

(2) require each shipper and transporter of low-level radioactive waste to adopt an emergency plan approved by the department for responding to transportation accidents;

(3) require the notification and reporting of accidents to the department and to local emergency planning committees in the county where the accident occurs;

(4) require each shipper to adopt a quality control program approved by the department to verify that shipping containers are suitable for shipment to a licensed disposal facility; ~~and~~

(5) assess a fee on shippers for shipments to a Texas low-level radioactive waste disposal facility of low-level radioactive waste originating in this state [Texas] or out-of-state; and

(6) prohibit transportation of low-level radioactive waste on a road located in a county the commissioners court of which has:

(A) adopted a resolution requesting such a prohibition; and

(B) submitted a certified copy of the resolution to the board.

(Geren in the chair)

Representative West moved to table Amendment No. 5.

A record vote was requested.

The motion to table prevailed by (Record 306): 89 Yeas, 51 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Davis, J.; Dawson; Delisi; Denny; Driver; Edwards; Eissler; Elkins; Flores; Flynn; Gattis; Goodman; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pickett; Pitts; Quintanilla; Reyna; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Taylor; Telford; Truitt; Van Arsdale; West; Wohlgemuth; Wolens; Wong; Woolley.

Nays — Alonzo; Bailey; Burnam; Canales; Capelo; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Ellis; Farabee; Farrar; Gallego; Garza; Giddings; Hochberg; Hodge; Homer; Hopson; Lewis; Luna; Mabry; Martinez Fischer; McClendon; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Puente; Raymond; Riddle; Ritter; Rodriguez; Rose; Solis; Talton; Thompson; Turner; Uresti; Villarreal; Wise.

Present, not voting — Mr. Speaker; Geren(C).

Absent, Excused — Goolsby; Isett; Wilson.

Absent — Crownover; Jones, J.; McReynolds; Zedler.

STATEMENTS OF VOTE

I was shown voting no on Record No. 306. I intended to vote present, not voting.

Noriega

When Record No. 306 was taken, my vote failed to register. I would have voted yes.

Zedler

Amendment No. 6

Representative Flores offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** as follows:

(1) Add new SECTION 4 to the bill to read as follows:

"SECTION 4. Section 401.109, Health and Safety Code, is amended to read as follows:

Section 401.109. SECURITY. (a) The department or commission may require a holder of a license issued by the agency to provide security acceptable to the agency to assure performance of the license holder's obligations under this chapter.

(b) The department or commission shall require a holder of a license that authorizes the disposal of low level radioactive waste as provided by Subchapter F to provide security acceptable to the agency to assure performance of the license holder's obligations under this chapter.

~~(b)~~ (c) The amount and type of security required shall be determined under the agency's rules in accordance with criteria that include:

(1) the need for and scope of decontamination, decommissioning, reclamation, or disposal activity reasonably required to protect the public health and safety and the environment;

(2) reasonable estimates of the cost of decontamination, decommissioning, reclamation, and disposal as provided by Section 401.303; and

(3) the cost of perpetual maintenance and surveillance, if any.

~~(c)~~ (d) In this section "security" includes:

(1) a cash deposit;

(2) a surety bond;

(3) a certificate of deposit;

(4) an irrevocable letter of credit;

(5) a deposit of government securities;

(6) an insurance policy; and

(7) ~~(6)~~ other security acceptable to the agency."

(2) renumber SECTIONS 4-13 of the bill appropriately.

Amendment No. 6 was adopted without objection.

Amendment No. 7

Representative Villarreal offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** as follows:

(1) On page 3, strike lines 16 to 23 and substitute:

(1) "Compact waste" means low-level radioactive waste that is generated in a host state or a state that is a party state as of September 1, 2003.

(2) On page 39, strike line 21 and substitute the following:

"SECTION 12. Sections 401.153, 401.306, and Section 3.05(6) of Section 403.006, Health and Safety".

Representative West moved to table Amendment No. 7.

A record vote was requested.

The motion to table prevailed by (Record 307): 98 Yeas, 44 Nays, 2 Present, not voting.

Yeas — Allen; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Edwards; Eiland; Eissler; Elkins; Farabee; Flynn; Gattis; Giddings; Goodman; Griggs; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Homer; Hope; Howard; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Luna; Madden; Marchant; McCall; McReynolds; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pickett; Pitts; Quintanilla; Reyna; Riddle; Ritter; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Telford; Truitt; Van Arsdale; West; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Nays — Alonzo; Burnam; Canales; Capelo; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Ellis; Farrar; Gallego; Garza; Guillen; Hamilton; Hochberg; Hodge; Hopson; Jones, J.; Laney; Lewis; Mabry; Martinez Fischer; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Puente; Raymond; Rodriguez; Rose; Solis; Thompson; Turner; Uresti; Villarreal; Wise.

Present, not voting — Mr. Speaker; Geren(C).

Absent, Excused — Goolsby; Isett; Wilson.

Absent — Flores; McClendon.

STATEMENT OF VOTE

I was shown voting no on Record No. 307. I intended to vote present, not voting.

Noriega

Amendment No. 8

Representative J. Jones offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** as follows:

(1) On page 1, line 5, strike "401.052(c)" and substitute "401.052(b), (c)".

(2) On page 1, between lines 6 and 7 insert the following:

(b) Rules adopted under this section for low-level radioactive waste must ~~shall~~:

(1) to the extent practicable, be compatible with United States Department of Transportation and United States Nuclear Regulatory Commission regulations relating to the transportation of low-level radioactive waste;

(2) require each shipper and transporter of low-level radioactive waste to adopt an emergency plan approved by the department for responding to transportation accidents;

(3) require the notification and reporting of accidents to the department and to local emergency planning committees in the county where the accident occurs;

(4) require each shipper to adopt a quality control program approved by the department to verify that shipping containers are suitable for shipment to a licensed disposal facility; ~~and~~

(5) assess a fee on shippers for shipments to a Texas low-level radioactive waste disposal facility of low-level radioactive waste originating in Texas or out-of-state; and

(6) require a shipper to carry liability insurance in an amount the board determines is sufficient to cover damages likely to be caused by a shipping accident.

Amendment No. 8 was adopted without objection.

Amendment No. 9

Representative J. Jones offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** as follows:

(1) On page 1, line 5, strike "401.052(c)" and substitute "401.052(b), (c)".

(2) On page 1, between lines 6 and 7 insert the following:

(b) Rules adopted under this section for low-level radioactive waste must ~~shall~~:

(1) to the extent practicable, be compatible with United States Department of Transportation and United States Nuclear Regulatory Commission regulations relating to the transportation of low-level radioactive waste;

(2) require each shipper and transporter of low-level radioactive waste to adopt an emergency plan approved by the department for responding to transportation accidents;

(3) require the notification and reporting of accidents to the department and to local emergency planning committees in the county where the accident occurs;

(4) require each shipper to adopt a quality control program approved by the department to verify that shipping containers are suitable for shipment to a licensed disposal facility; ~~and~~

(5) assess a fee on shippers for shipments to a Texas low-level radioactive waste disposal facility of low-level radioactive waste originating in Texas or out-of-state; and

(6) prohibit a vehicle transporting low-level radioactive waste from traveling in a location that is one mile or closer to:

(A) a school;

(B) a church;

(C) a hospital; or

(D) a playground.

Amendment No. 10

Representative Y. Davis offered the following amendment to Amendment No. 9:

Amend **CSHB 1567** as follows:

(1) On page 1, line 5, strike "401.052(c)" and substitute "401.052(b), (c)".

(2) On page 1, between lines 6 and 7 insert the following:

(b) Rules adopted under this section for low-level radioactive waste must [~~shall~~]:

(1) to the extent practicable, be compatible with United States Department of Transportation and United States Nuclear Regulatory Commission regulations relating to the transportation of low-level radioactive waste;

(2) require each shipper and transporter of low-level radioactive waste to adopt an emergency plan approved by the department for responding to transportation accidents;

(3) require the notification and reporting of accidents to the department and to local emergency planning committees in the county where the accident occurs;

(4) require each shipper to adopt a quality control program approved by the department to verify that shipping containers are suitable for shipment to a licensed disposal facility; [~~and~~]

(5) assess a fee on shippers for shipments to a Texas low-level radioactive waste disposal facility of low-level radioactive waste originating in Texas or out-of-state; and

(6) require the department to conduct a study to determine the health effects on children that may be caused by transportation of low-level radioactive waste near schools and child care facilities and report the results of the study to:

(A) any school or facility that may be affected by the transportation;
and

(B) any parent of a child that may be affected by the transportation.

Amendment No. 10 was adopted without objection.

Representative West moved to table Amendment No. 9.

The motion to table prevailed.

(Speaker in the chair)

Amendment No. 11

Representative Burnam offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** as follows:

(1) On page 4, line 4, between "means" and "low-level" insert "Class A".

(2) On page 4, line 5, between "waste" and "that" insert ", as defined by the department,".

CSHB 1567- POINT OF ORDER

Representative Burnam raised a point of order against further consideration of **CSHB 1567** under Rule 4, Section 32(c)(3) of the House Rules on the grounds that the committee report's statement of rulemaking authority is misleading and inaccurate.

The speaker overruled the point of order, speaking as follows:

Mr. Burnam raises a point of order against further consideration of **CSHB 1567** under Rule 4, Section 32(c)(3), in that the committee report's description of the delegation of rulemaking authority is inaccurate and misleading, referencing the Radiation Advisory Board when in fact the board referenced is the Texas Board of Health.

The section of the bill at issue references rules adopted by the board of health, who "shall consult with the advisory board." The rulemaking statement says that the "rulemaking authority is further amended to the Radiation Advisory Board." Since the committee report directs the members' attention to that section, and since the advisory board in fact is consulted on those rules and is referred to in the statute at issue, the chair finds that the committee report is neither inaccurate nor materially misleading.

Accordingly, the point of order is respectfully overruled.

Representative Chisum moved to table Amendment No. 11.

A record vote was requested.

The motion to table prevailed by (Record 308): 96 Yeas, 42 Nays, 1 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Ellis; Farabee; Flores; Flynn; Gattis; Geren; Goodman; Griggs; Grusendorf; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Homer; Hope; Howard; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Krusee; Kuempel; Laubenberg; Lewis; Madden; Marchant; McCall; McReynolds; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pickett; Pitts; Quintanilla; Reyna; Riddle; Ritter; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Edwards; Eiland; Farrar; Gallego; Garza; Giddings; Guillen; Hochberg; Hodge; Hopson; Jones, J.; Luna; Mabry; Martinez Fischer; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Puente; Raymond; Rodriguez; Rose; Solis; Telford; Thompson; Turner; Uresti; Villarreal.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Goolsby; Isett; Wilson.

Absent — Capelo; Dunnam; Kolkhorst; Laney; McClendon; Peña; Wise.

STATEMENTS OF VOTE

I was shown voting no on Record No. 308. I intended to vote present, not voting.

Noriega

When Record No. 308 was taken, I was in the house but away from my desk. I would have voted no.

Peña

Amendment No. 12

Representative Burnam offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** on page 5 by striking lines 10-13 and substituting:

Sec. 401.203. STATE AS LICENSE HOLDER [~~RESTRICTED TO PUBLIC ENTITY~~]. A compact [~~low-level radioactive~~] waste facility disposal license may be issued only to a state agency as defined by Section 2001.003, Government Code [~~a public entity specifically authorized by law for low level radioactive waste disposal~~].

CSHB 1567 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE DUNNAM: Mr. Chisum, I have a question along the lines of Mr. Burnam's statement that this creates some type of monopoly. It's my understanding that this bill has five criteria where a facility cannot be located, is that right?

REPRESENTATIVE CHISUM: That's exactly right. We didn't intend for it to be dislocated in any part of the state but it does have some specific criteria, it could be.

DUNNAM: Well, and I can understand one of the criteria is close to the border and what's the rationale for that criteria?

CHISUM: We had a significant discussion about a kind of a quasi treaty between the states, or the country of Mexico and the Texas border called the La Paz Agreement. It designated that sixty kilometers between either border that we would not create a hazardous waste disposal, and while that is not binding on Texas law, we determined that probably we should move away from that border and that's what we have done is moved out of the La Paz required agreement, which is 60 kilometers—

DUNNAM: 60 kilometers is like, I'm guessing around—

CHISUM: 58 miles, 55 miles, something like that

DUNNAM: 55 miles? Why 62 miles?

CHISUM: We want to be well with outside the La Paz Agreement so if 60 kilometers is what La Paz says, we just felt like that's more easy for us to understand than 62 miles.

DUNNAM: Well, it also says the average rainfall, if it's greater than 20 inches, that the site cannot be there. What's the justification for that?

CHISUM: The justification for that is if there in fact is a recharge zone, or some kind of a recharge zone, we are to have it in a limited kind of arid section of the state. This state has vast amounts of land that have less than 20 inches of rainfall. In fact, the area I live in has less than 20 inches of rainfall and that's the only criteria for having the limited rainfall.

DUNNAM: Alright, and what about the 100 year flood plain?

CHISUM: The 100 year flood plain was so that we would make sure that this would not go in an area that might be within a 100 year flood plain just because we thought that it would help us to know that we wouldn't be where we would likely have the flood waters passing by the location of this site.

DUNNAM: And then there's another one that says less than 20 miles upstream of or up drainage from the maximum elevation of the surface of a reservoir project and it defines reservoir project. What is the justification or rationale for that?

CHISUM: The rationale for that is so that you wouldn't have this built close to a place that you had a reservoir where people might be drinking water. We didn't want it located on riverbanks or within reasonable expectation that run off from this site. It may end up in a reservoir in the State of Texas. We believed that was sufficient criteria to set that back.

DUNNAM: And the last one says that a county that joins river segment 2309, 2310, or 2311, as identified in the code, what's special about those river segments?

CHISUM: It requires, I believe that requires a resolution from the county to accept the site within it, so that it wouldn't be forced into a county that did not—

DUNNAM: But that only applies to those river segments and my question is, what is it about those three river segments that make them special?

CHISUM: It's just the committee determined that that was special, that those are to be met.

DUNNAM: Can you tell us anything about those three river segments that sets them apart from other river segments in the state that would justify its creating a special bracket for those three river segments?

CHISUM: No, I cannot.

DUNNAM: Do you know whether anybody can tell us? Is there anything special about those three river segments?

CHISUM: I'm sure there's something special about them. I'm not the author of the bill and we'd certainly look at those if you—

DUNNAM: I've looked in the administrative code, Mr. Chisum, and we can look at other river segments. River segment 0101 which is the Canadian lake below Lake Meredith, and also 0103 which is the Canadian river above the lake—one of them is below and one of the is above—those have the same recreation

categories. They have the same aquatic life categories, they have the same measurements in terms of things like chlorides and dissolved oxygen, and the same temperature. They have the, they appear to be the same type of river segment, and I just wondered why we had an exclusion for 2311 but not for 0101 and 0103. Is there any justification, reasonable justification for that difference?

CHISUM: I'm sure there's a reasonable justification for that reason.

DUNNAM: What would it be?

CHISUM: I'm not sure what that would be. I'm sure there's a justification for it. You know, we primarily wanted this in an area—a sparsely populated area of the state, and that's virtually what we designed in the bill.

DUNNAM: Was there any testimony in the committee that set forth what the distinction was and what the reasonable distinction was between 2311 and other rivers that appear, at least in the administrative code, to be the exact same types of rivers?

CHISUM: Not that I'm aware of. Not that I recall.

Representative Chisum moved to table Amendment No. 12.

CSHB 1567- POINT OF ORDER

Representative Burnam raised a point of order against further consideration of **CSHB 1567** under Rule 8, Section 10(b) of the House Rules on the grounds that the bill is improperly limited to one or more political subdivisions by means of an artificial device.

The point of order was withdrawn.

Representative West moved to postpone consideration of **CSHB 1567** until 4 p.m. today.

The motion prevailed without objection.

MAJOR STATE CALENDAR (consideration continued)

HB 897 ON SECOND READING (by Woolley, Giddings, et al.)

HB 897, A bill to be entitled An Act relating to the operation of certain employer coalitions and cooperatives established for the provision of health benefits coverage.

HB 897 was passed to engrossment.

HB 1882 ON SECOND READING (by Deshotel, et al.)

HB 1882, A bill to be entitled An Act relating to incentives for certain high schools and high school students to participate in the Early High School Graduation Scholarship program.

HB 1882 was passed to engrossment.

HB 1887 ON SECOND READING
(by Morrison, Chavez, and Mercer)

HB 1887, A bill to be entitled An Act relating to funds received by institutions of higher education to cover overhead expenses of conducting research.

HB 1887 was passed to engrossment.

HB 1941 ON SECOND READING
(by Woolley, Hochberg, Wong, and Edwards)

HB 1941, A bill to be entitled An Act relating to authorizing the issuance of revenue bonds for The University of Texas Health Science Center at Houston for recovery from Tropical Storm Allison and exempting the property and projects financed by the bonds from prior approval by the Texas Higher Education Coordinating Board.

HB 1941 was passed to engrossment.

GENERAL STATE CALENDAR
HOUSE BILLS
SECOND READING

The following bills were laid before the house and read second time:

CSHB 1165 ON SECOND READING
(by Solomons, Elkins, Giddings, Kolkhorst, and Zedler)

CSHB 1165, A bill to be entitled An Act relating to business corporations.

Amendment No. 1

Representative Hartnett offered the following amendment to **CSHB 1165**:

Amend **CSHB 1165** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION ._____ The Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) is amended by adding Article 6.07 to read as follows:

Art. 6.07. FRAUDULENT TERMINATION. A. Notwithstanding any other provision of this Act, a court may order the revocation of dissolution of a corporation that was dissolved as a result of actual or constructive fraud. In an action under this Article, any limitation period provided by law is tolled in accordance with the discovery rule.

B. The Secretary of State shall take any action necessary to implement an order under this Article.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Lewis offered the following amendment to **CSHB 1165**:

Amend **CSHB 1165** by inserting the following new section, appropriately numbered, and renumbering the subsequent sections accordingly:

SECTION _____. Subchapter D, Chapter 371, Finance Code, is amended by adding Section 371.184 to read as follows:

Sec. 371.184. RESTRICTIONS ON TRANSACTIONS INVOLVING INTERESTED PARTIES. (a) In this section:

(1) "Controlling shareholder" means a shareholder or group of affiliated shareholders that has effective control of a corporation or other business entity.

(2) "Effective control" means, with respect to a corporation or other business entity, the ownership of 25 percent or more of the shares eligible to vote in any election of directors or other matters typically requiring shareholder approval.

(3) "Interested party" means, with respect to a corporation or other business entity:

(A) a controlling shareholder;

(B) a member of the board of directors or its equivalent;

(C) an executive officer of the corporation or business entity;

(D) a member of the immediate family of a controlling shareholder, director, or executive officer; or

(E) an affiliate of the corporation or other business entity, a controlling shareholder, director, or executive officer of an affiliate, or a member of the immediate family of a controlling shareholder, director, or executive officer of an affiliate.

(b) A corporation or other business entity that holds a license under this chapter, makes loans and charges interest, whose shares are publicly traded, and that has a shareholder or group of affiliated shareholders who have the power to exercise effective control of the corporation or other business entity may not engage in transaction involving more than \$10,000 with an interested party unless the transaction receives prior approval of a majority of the holders of outstanding shares of the corporation's or other business entity's capital stock or its equivalent, including capital stock that is not otherwise entitled to vote, who are not interested parties, voting together as a single class of capital stock.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Hartnett offered the following amendment to **CSHB 1165**:

Amend **CSHB 1165** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION _____. Part Six, Texas Business Corporation Act, is amended by adding Article 6.08 to read as follows:

Art. 6.08. FRAUDULENT TERMINATION. A. Notwithstanding any other provision of this Act, a court may order the revocation of dissolution of a corporation that was dissolved as a result of actual or constructive fraud. In an action under this Article, any limitation period provided by law is tolled in accordance with the discovery rule.

B. The Secretary of State shall take any action necessary to implement an order under this Article.

Amendment No. 3 was adopted without objection.

CSHB 1165, as amended, was passed to engrossment.

HB 1156 ON SECOND READING

(by Giddings, Elkins, Kolkhorst, Solomons, and Zedler)

HB 1156, A bill to be entitled An Act relating to adoption of the Business Organizations Code.

Amendment No. 1

Representative Giddings offered the following amendment to **HB 1156**:

Amend page 91, lines 12 through 13, by striking the following words:
digital signature, an electronic signature, and

Amendment No. 1 was withdrawn.

Amendment No. 2

Representatives Dunnam and Y. Davis offered the following amendment to **HB 1156**:

Amend **HB 1156** by adding the following appropriately numbered SECTION to read as follows:

SECTION _____. (a) This section applies only to an entity that is not defined as a corporation by Section 171.001(b) (3), Tax Code, but:

(1) that is operated for profit;

(2) that is operating, organized, or registered under the laws of this state in a manner that provides liability limitations for a person who holds an ownership interest in the entity, including a partner's interest in a partnership; and

(3) in which any ownership interest is held by an entity other than a natural person, without regard to whether the person that is not a natural person is located in this state or is in any other manner doing business in this state,

(b) An entity to which this section applies is subject to the franchise tax under Chapter 171, Tax Code, in the manner provided by this section.

(c) The net taxable capital of the entity is computed by:

(1) adding the entity's capital accounts, undistributed profits, and surplus to determine the entity's taxable capital;

(2) apportioning the entity's taxable capital to this state as provided by Section 171.106, Tax Code, to determine the entity's apportioned taxable capital; and

(3) subtracting from the amount computed under Subdivision (2) of this subsection any other allowable deductions to determine the entity's net taxable capital.

(d) For purposes of Subsection (c) (1) of this section, an amount that belongs to or is included in the entity's capital accounts, undistributed profits, or surplus is excluded if the amount has been added once under that subsection in determining the entity's taxable capital.

(e) The net taxable earned surplus of the entity is determined as provided by Section 171.110, Tax Code, if the entity is not a partnership. If the entity is a partnership, the net taxable earned surplus of the entity is computed by:

(1) determining the partnership's reportable federal taxable income and making the following adjustments:

(A) subtracting any taxable income of a partner who is a natural person;

(B) subtracting dividends received from a subsidiary, associate, or affiliated corporation that does not transact a substantial portion of its business or regularly maintain a substantial portion of its assets in the United States; and

(C) adding any compensation of each officer or director who owns 0.1 percent or more of the partnership, to the extent excluded in determining reportable federal taxable income;

(2) apportioning the partnership's taxable earned surplus to this state as provided by Section 171.106, Tax Code, to determine the partnership's apportioned taxable earned surplus;

(3) adding the partnership's taxable earned surplus allocated to this state as provided by Section 171.1061, Tax Code; and

(4) subtracting from that amount any allowable deductions and any business loss that is carried forward to the tax reporting period and deductible under Subsection (f) of this section.

(f) For purposes of Subsection (e) (1) of this section:

(1) an amount may not be subtracted from reportable federal taxable income more than once; and

(2) an amount may not be added to reportable federal taxable income more than once.

(g) For purposes of this section, a business loss is any negative amount after apportionment and allocation. The business loss shall be carried forward to the year succeeding the loss year as a deduction to net taxable earned surplus, then successively to the succeeding four taxable years after the loss year or until the loss is exhausted, whichever occurs first, but for not more than five taxable years after the loss year. Notwithstanding the preceding sentence, a business loss incurred before January 1, 2003, may not be used to reduce net taxable earned surplus.

(h) Notwithstanding any other provision of this section, to the extent that the net income of natural persons, including a person's share of partnership and unincorporated association income, may not be taxed as provided by Section 24, Article VIII, Texas Constitution, the income is not included in net taxable earned surplus and is not subject to the tax imposed under this Act.

(i) Subject to Subsection (j) of this section, the changes made by this section take effect for initial, annual, or final franchise tax reports originally due on or after January 1, 2004.

(j) For an entity becoming subject to the franchise tax under this section:

(1) income or losses occurring before January 1, 2003, may not be considered for purposes of the earned surplus component;

(2) for entities in existence on January 1, 2003, that would have been subject to the franchise tax had this Act been in effect on January 1, 2003, the first report due under this Act will be either a final report, if applicable, or an annual report due May 15, 2004; and

(3) for entities that would have become subject to the franchise tax after January 1, 2003, had this Act been in effect on January 1, 2003, the first report due under this Act will be an initial report or a final report, if applicable.

Amendment No. 2 - Point of Order

Representative Elkins raised a point of order against further consideration of Amendment No. 2 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane to the bill.

The speaker sustained the point of order, speaking as follows:

Representative Elkins raises a point of order against further consideration of the Dunnam amendment under Rule 11, Section 2, in that the amendment is not germane to **HB 1156**.

HB 1156 is a recodification of the laws governing the formation, governance, and internal affairs of business entities such as corporations, associations, and partnerships. The bill analysis expressly notes that "some substantive changes have been made," but the bill is nonetheless "generally a nonsubstantive recodification." A revisor's report has been available to the legislature and the public identifying numerous substantive changes. **HB 1156** is clearly "omnibus" in regards to amendments concerning the formation, governance, and internal affairs of business organizations.

The Dunnam amendment would impose the Texas franchise tax on certain described business entities that are not corporations for purposes of Chapter 171, Tax Code, the statute generally imposing the franchise tax. The amendment provides rules for the computation of the net taxable capital and net taxable earned surplus of the entity, as well as provisions for the treatment of business losses. For corporations subject to the franchise tax, those computations and related provisions are all provided by Chapter 171, Tax Code. The clear subject of the amendment is the application of the franchise tax and how that tax is computed in regard to a particular type of business entity. The question presented by the point of order is whether that subject is within the broad subject of **HB 1156**; that is, whether imposition of the franchise tax is part of the "formation, governance, and internal affairs" of business entities.

The text of the Business Organizations Code as proposed by **HB 1156** makes it clear that tax liability is beyond the scope of the code, and the provisions of the code accordingly make numerous cross-references to the relationship between tax liability and termination of an entity (e.g., Sec. 3.003), tax forfeiture (e.g., 9.104, 11.254), or withdrawal (9.011). For example, Section 11.254 provides "A filing entity whose certificate of formation has been forfeited under the provisions of the Tax Code must follow the procedures in the Tax Code to reinstate its certificate of formation," clearly establishing that both the tax forfeiture and the procedures related to forfeiture and reinstatement are governed by a body of law different from the Business Organizations Code.

The attention of the chair has been directed to Sections 23.106 and 251.451 of the Business Organizations Code, which provide respectively that certain special purpose corporations or cooperative associations are "not subject to or required to pay a franchise tax," except that such an entity "is exempt from the

franchise tax imposed by Chapter 171, Tax Code, only if" exempt under that chapter. As with other references to the Tax Code, the provision establishes the proposition that the franchise tax referred to by the Dunnam amendment is imposed by and governed by a different body of law.

The mere reference to another body of law in **HB 1156** does not bring amendments to that body of law within the subject of the formation, governance, and internal affairs of business organizations. The imposition of the franchise tax on business organizations is a separate and distinct subject from that presented in **HB 1156**.

Accordingly, the point of order is sustained.

The ruling precluded further consideration of Amendment No. 2.

HB 1156 was passed to engrossment.

HB 1394 ON SECOND READING

(by Elkins, Edwards, Bohac, Giddings, and Solomons)

HB 1394, A bill to be entitled An Act relating to a revision of the general provisions of the Uniform Commercial Code.

(Branch in the chair)

HB 1394 was passed to engrossment.

HB 1637 ON SECOND READING

(by Oliveira, Giddings, Solomons, Elkins, and Kolkhorst)

HB 1637, A bill to be entitled An Act relating to the formation, organization, management, and records of certain business organizations.

Amendment No. 1

Representative Hartnett offered the following amendment to **HB 1637**:

Amend **HB 1637** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 4.04(a), Texas Revised Partnership Act (Article 6132b-4.04, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Duties. A partner owes to the partnership, ~~and~~ the other partners, and successors of deceased partners:

- (1) a duty of loyalty; and
- (2) a duty of care.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Dunnam offered the following amendment to **HB 1637**:

Amend **HB 1637** by adding the following section: SECTION ____.
APPLICABILITY OF FRANCHISE TAX. (a) This section applies only to an entity subject to the Texas Limited Liability Company Act or composed of one or more such entities but that is not defined as a corporation by Section 171.001(b)(3), Tax Code, but:

(1) that is operated for profit;

(2) that is operating, organized, or registered under the laws of this state in a manner that provides liability limitations for a person who holds an ownership interest in the entity, including a partner's interest in a partnership; and

(3) in which any ownership interest is held by an entity other than a natural person, without regard to whether the person that is not a natural person is located in this state or is in any other manner doing business in this state,

(b) An entity to which this section applies is subject to the franchise tax under Chapter 171, Tax Code, in the manner provided by this section.

(c) The net taxable capital of the entity is computed by:

(1) adding the entity's capital accounts, undistributed profits, and surplus to determine the entity's taxable capital;

(2) apportioning the entity's taxable capital to this state as provided by Section 171.106, Tax Code, to determine the entity's apportioned taxable capital; and

(3) subtracting from the amount computed under Subdivision (2) of this subsection any other allowable deductions to determine the entity's net taxable capital.

(d) For purposes of Subsection (c) (1) of this section, an amount that belongs to or is included in the entity's capital accounts, undistributed profits, or surplus is excluded if the amount has been added once under that subsection in determining the entity's taxable capital.

(e) The net taxable earned surplus of the entity is determined as provided by Section 171.110, Tax Code, if the entity is not a partnership. If the entity is a partnership, the net taxable earned surplus of the entity is computed by:

(1) determining the partnership's reportable federal taxable income and making the following adjustments:

(A) subtracting any taxable income of a partner who is a natural person;

(B) subtracting dividends received from a subsidiary, associate, or affiliated corporation that does not transact a substantial portion of its business or regularly maintain a substantial portion of its assets in the United States; and

(C) adding any compensation of each officer or director who owns 0.1 percent or more of the partnership, to the extent excluded in determining reportable federal taxable income;

(2) apportioning the partnership's taxable earned surplus to this state as provided by Section 171.106, Tax Code, to determine the partnership's apportioned taxable earned surplus;

(3) adding the partnership's taxable earned surplus allocated to this state as provided by Section 171.1061, Tax Code; and

(4) subtracting from that amount any allowable deductions and any business loss that is carried forward to the tax reporting period and deductible under Subsection (f) of this section.

(f) For purposes of Subsection (e) (1) of this section:

(1) an amount may not be subtracted from reportable federal taxable income more than once; and

(2) an amount may not be added to reportable federal taxable income more than once.

(g) For purposes of this section, a business loss is any negative amount after apportionment and allocation. The business loss shall be carried forward to the year succeeding the loss year as a deduction to net taxable earned surplus, then successively to the succeeding four taxable years after the loss year or until the loss is exhausted, whichever occurs first, but for not more than five taxable years after the loss year. Notwithstanding the preceding sentence, a business loss incurred before January 1, 2003, may not be used to reduce net taxable earned surplus.

(h) Notwithstanding any other provision of this section, to the extent that the net income of natural persons, including a person's share of partnership and unincorporated association income, may not be taxed as provided by Section 24, Article VIII, Texas Constitution, the income is not included in net taxable earned surplus and is not subject to the tax imposed under this Act.

(i) Subject to Subsection (j) of this section, the changes made by this section take effect for initial, annual, or final franchise tax reports originally due on or after January 1, 2004.

(j) For an entity becoming subject to the franchise tax under this section:

(1) income or losses occurring before January 1, 2003, may not be considered for purposes of the earned surplus component;

(2) for entities in existence on January 1, 2003, that would have been subject to the franchise tax had this Act been in effect on January 1, 2003, the first report due under this Act will be either a final report, if applicable, or an annual report due May 15, 2004; and

(3) for entities that would have become subject to the franchise tax after January 1, 2003, had this Act been in effect on January 1, 2003, the first report due under this Act will be an initial report or a final report, if applicable. (New.)

Amendment No. 2 - Point of Order

Representative Elkins raised a point of order against further consideration of Amendment No. 2 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane to the bill.

(Speaker in the chair)

The speaker sustained the point of order, speaking as follows:

Representative Elkins raises a point of order against further consideration of the Dunnam amendment under Rule 11, Section 2, in that the amendment is not germane to **HB 1637**.

HB 1637 relates to the formation, governance, and internal affairs of limited liability companies. The clear subject of the Dunnam amendment is the application of the franchise tax and how that tax is computed for a particular type of business entity. Therefore, the question presented by the point of order is whether the subject of the amendment is within the subject of **HB 1637**.

Rule 11, Section 2 provides that "no motion or proposition on a subject different from the subject under consideration shall be admitted as an amendment..." The Dunnam amendment relates to the imposition and computation of the franchise tax on certain business entities under Chapter 171, Tax Code and is, therefore, a different subject than that contained in **HB 1637**.

Accordingly, the point of order is sustained.

The ruling precluded further consideration of Amendment No. 2.

HB 1637, as amended, was passed to engrossment.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

CSHB 1567 ON SECOND READING (by West, Chisum, and T. Smith)

CSHB 1567, A bill to be entitled An Act relating to the disposal of low-level radioactive waste; authorizing the exercise of the power of eminent domain.

CSHB 1567 was read second time earlier today, postponed until 1:00 p.m. today, and was again postponed until 4 p.m. today.

Amendment No. 12 was before the house, and Representative Chisum had moved to table Amendment No. 12 at the time of postponement.

A record vote was requested.

The motion to table prevailed by (Record 309): 95 Yeas, 44 Nays, 1 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Farabee; Flynn; Gattis; Geren; Goodman; Griggs; Grusendorf; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hill; Homer; Hope; Howard; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Madden; Marchant; McCall; McReynolds; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pickett; Pitts; Reyna; Riddle; Ritter; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Taylor; Telford; Truitt; Van Arsdale; West; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Ellis; Farrar; Gallego; Garza; Guillen; Hochberg; Hodge; Hopson; Jones, J.; Luna; Mabry;

Martinez Fischer; McClendon; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Puente; Raymond; Rodriguez; Rose; Talton; Thompson; Turner; Villarreal; Wise.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Goolsby; Isett; Wilson.

Absent — Flores; Giddings; Hilderbran; Quintanilla; Solis; Uresti.

STATEMENTS OF VOTE

When Record No. 309 was taken, my vote failed to register. I would have voted no.

Hilderbran

I was shown voting no on Record No. 309. I intended to vote present, not voting.

Noriega

CSHB 1567 - POINT OF ORDER

Representative Burnam raised a point of order against further consideration of **CSHB 1567** under Rule 8, Section 10(b) of the House Rules and Article III, Section 56 of the Texas Constitution on the grounds that the bill is improperly limited to one or more political subdivisions by means of an artificial device.

The point of order was withdrawn.

Amendment No. 13

Representative Villarreal offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** as follows:

(1) On page 8, line 4, between "WASTE." and "The" insert "(a)".

(2) On page 8, between lines 15 and 16, insert the following:

(b) The compact waste disposal facility license holder may not accept compact waste as defined by Section 401.2005(1)(B) in an amount that exceeds 10 percent of the amount of the waste accepted by the license holder that is from this state.

(3) Add the following appropriately numbered section and renumber subsequent sections of the bill accordingly:

SECTION __. Section 3.04 of Section 403.006, Health and Safety Code, is amended by adding Subdivision (12) to read as follows:

(12) Limit the amount of waste generated in a nonparty state that may be accepted at the compact facility to not more than 10 percent of the waste that will be generated in the host state and disposed of at the compact facility.

Representative Chisum moved to table Amendment No. 13.

(Geren in the chair)

A record vote was requested.

The motion to table prevailed by (Record 310): 97 Yeas, 43 Nays, 2 Present, not voting.

Yeas — Allen; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eiland; Eissler; Elkins; Ellis; Farabee; Flynn; Gattis; Goodman; Griggs; Grusendorf; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Homer; Hope; Howard; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Madden; Marchant; McCall; McReynolds; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pickett; Pitts; Reyna; Riddle; Ritter; Seaman; Smith, T.; Smith, W.; Solomons; Stick; Swinford; Talton; Taylor; Telford; Truitt; Van Arsdale; West; Wise; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Nays — Alonzo; Burnam; Canales; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Farrar; Gallego; Garza; Giddings; Guillen; Hochberg; Hodge; Hopson; Jones, J.; Lewis; Luna; Mabry; Martinez Fischer; McClendon; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Puente; Raymond; Rodriguez; Rose; Solis; Thompson; Turner; Uresti; Villarreal.

Present, not voting — Mr. Speaker; Geren(C).

Absent, Excused — Goolsby; Isett; Wilson.

Absent — Corte; Flores; Quintanilla; Smithee.

STATEMENT OF VOTE

I was shown voting no on Record No. 310. I intended to vote present, not voting.

Noriega

Amendment No. 14

Representative Olivo offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** as follows:

(1) On page 4, lines 1-2, strike "and the federal facility waste disposal facility, if applicable".

(2) On page 4, line 3, strike "or facilities".

(3) On page 4, strike lines 4 to 11 and renumber subsequent subdivisions accordingly.

(4) On page 5, line 7, strike "Except as provided by Section 401.216, the" and substitute "The".

(5) On page 6, line 6, strike "(a)".

(6) On pages 6 and 7, strike page 6, line 20 through page 7, line 10.

(7) On page 7, strike lines 16 and 17.

(8) On page 9, line 13, strike "or to the federal government".

(9) On page 9, line 14, strike "or to the federal government".

(10) On page 9, line 17, strike "(a)".

(11) On page 9, line 19, strike "or to the federal government".

(12) On pages 9 and 10, strike page 9, line 24, through page 10, line 7.

- (13) On page 11, strike lines 4 to 21.
- (14) On page 11, lines 24-25, strike "or authorize the operation of a federal facility waste disposal facility".
- (15) On page 13, line 15, strike "or facilities".
- (16) On page 14, lines 2-3, strike "and includes federal mixed waste".
- (17) On page 14, lines 5-6, strike "or a federal facility waste disposal facility".
- (18) On page 14, lines 22-23, strike "or a federal facility waste disposal facility".
- (19) On page 15, line 5, strike "or a federal facility waste disposal facility".
- (20) On page 15, line 11, strike "or a federal facility waste disposal facility".
- (21) On page 15, lines 20-21, strike "or a federal facility waste disposal facility".
- (22) On page 16, line 21, strike "or facilities".
- (23) On page 18, lines 9-10, strike "or facilities".
- (24) On page 18, line 13, strike "or facilities".
- (25) On page 18, line 19, strike "or facilities".
- (26) On page 18, line 20, strike "or facilities".
- (27) On page 18, line 26, strike "or facilities".
- (28) On page 19, line 2, strike "or facilities are" and substitute "is".
- (29) On page 19, line 10, strike "or facilities".
- (30) On page 19, line 11, strike "or facilities are" and substitute "is".
- (31) On page 19, lines 18-19, strike "or federal facility waste disposal facility".
- (32) On page 20, line 27, strike "or facilities".
- (33) On page 21, lines 1-2, strike "or facilities".
- (34) On page 21, line 20, strike "or facilities".
- (35) On page 22, lines 10-11, strike "or facilities".
- (36) On page 22, lines 12-13, strike "or facilities".
- (37) On page 22, line 26, strike "or facilities".
- (38) On page 23, line 4, strike "or facilities".
- (39) On page 23, line 18, strike "or facilities".
- (40) On page 25, line 5, strike "or facilities".
- (41) On page 25, line 11, strike "or facilities".
- (42) On page 25, lines 15-16, strike "or facilities".
- (43) On page 25, line 18, strike "or facilities".
- (44) On page 25, line 20, strike "or facilities".
- (45) On page 28, lines 17-18, strike "or a federal facility waste disposal facility authorized under Section 401.216".
- (46) On page 30, strike lines 2 to 6 and substitute "receipts from compact waste received at the compact waste disposal facility".
- (47) On page 32, between lines 21 and 22, insert the following:

(e) The compact waste disposal facility licensed under this subchapter may not accept for disposal low-level radioactive waste that is the responsibility of the federal government under the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. Sections 2021b-2021j).

Representative Chisum moved to table Amendment No. 14.

A record vote was requested.

The motion to table prevailed by (Record 311): 97 Yeas, 43 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Edwards; Eiland; Eissler; Elkins; Ellis; Farabee; Flynn; Gattis; Goodman; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Homer; Hope; Howard; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pickett; Pitts; Quintanilla; Riddle; Ritter; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Telford; Truitt; Van Arsdale; West; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Farrar; Gallego; Garza; Giddings; Guillen; Gutierrez; Hochberg; Hodge; Hopson; Jones, J.; Luna; Mabry; Martinez Fischer; McClendon; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Peña; Puente; Raymond; Rodriguez; Rose; Solis; Thompson; Turner; Uresti; Villarreal; Wise.

Present, not voting — Mr. Speaker; Geren(C).

Absent, Excused — Goolsby; Isett; Wilson.

Absent — Flores; McReynolds; Olivo; Reyna.

STATEMENTS OF VOTE

I was shown voting no on Record No. 311. I intended to vote present, not voting.

Noriega

When Record No. 311 was taken, I was in the house but away from my desk. I would have voted no.

Olivo

Amendment No. 15

Representative Rodriguez offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** as follows:

(1) Except as provided in items (3) and (6) of this amendment, throughout the bill, strike "department" and substitute "commission".

(2) Throughout the bill, strike "DEPARTMENT" and substitute "COMMISSION".

(3) Throughout the bill, strike "department [~~commission~~]" and substitute "commission".

(4) On page 1, lines 8-9, strike "[~~and the commission~~]" and substitute "and the commission".

(5) On page 4, lines 21-22, strike "[~~commission or~~] department may [~~within its respective jurisdiction, shall~~]" and substitute "commission or department, within its respective jurisdiction, may [~~shall~~]".

(6) On page 14, line 13, strike "The department" and substitute "The commission, the department".

(7) On page 25, line 22, strike "department's" and substitute "commission's".

(8) On page 26, line 5, strike "commissioner" and substitute "executive director".

(9) On page 26, line 14, strike "department's" and substitute "commission's".

(10) On page 27, line 2, strike "commissioner" and substitute "commission".

(11) On page 27, lines 11-12, strike "commissioner or the department" and substitute "commission".

(12) On page 27, line 19, strike "commissioner or the department" and substitute "commission".

(13) On page 27, line 20, strike "commissioner or department" and substitute "commission".

(14) On page 28, line 1, strike "department's" and substitute "commission's".

(15) On page 29, line 16, strike "department's" and substitute "commission's".

(16) On page 31, line 6, strike "board" and substitute "commission [~~board~~]".

(17) On page 33, line 6, strike "board" and substitute "commission [~~board~~]".

(18) On page 33, line 12, strike "board" and substitute "commission [~~board~~]".

(19) On page 33, line 24, strike "board" and substitute "commission [~~board~~]".

Representative Chisum moved to table Amendment No. 15.

A record vote was requested.

The motion to table prevailed by (Record 312): 100 Yeas, 40 Nays, 3 Present, not voting.

Yeas — Allen; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eiland; Eissler; Elkins; Ellis; Farabee; Flores; Flynn; Gattis; Goodman; Griggs;

Grusendorf; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Homer; Hope; Howard; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Madden; Marchant; McCall; McReynolds; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Oliveira; Paxton; Phillips; Pickett; Pitts; Reyna; Riddle; Ritter; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Nays — Alonzo; Burnam; Canales; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Farrar; Gallego; Garza; Giddings; Guillen; Hochberg; Hodge; Hopson; Jones, J.; Luna; Mabry; Martinez Fischer; McClendon; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Olivo; Peña; Puente; Raymond; Rodriguez; Rose; Solis; Telford; Thompson; Turner; Uresti; Villarreal; Wise.

Present, not voting — Mr. Speaker; Edwards; Geren(C).

Absent, Excused — Goolsby; Isett; Wilson.

Absent — Castro; Chavez; Quintanilla.

STATEMENT OF VOTE

I was shown voting no on Record No. 312. I intended to vote present, not voting.

Noriega

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

CSHB 1567 - (consideration continued)

Amendment No. 16

Representative Olivo offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** on page 11, between lines 21 and 22, by inserting:

(e) In addition to any restriction imposed by the department under Subsection (b), the compact waste disposal facility license holder may dispose of not more than 10 million cubic feet of federal facility waste at a federal facility waste disposal facility under this section.

Representative West moved to table Amendment No. 16.

The motion to table prevailed.

Amendment No. 17

Representative Rodriguez offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** on page 13, between lines 26 and 27 by inserting the following:

Sec. 401.2205. PHYSICAL SECURITY FOR FACILITY. The compact waste disposal facility license holder shall provide physical security for the compact waste disposal facility and the federal facility waste disposal facility at the level required under federal rules for a nuclear power plant.

(Speaker in the chair)

Representative West moved to table Amendment No. 17.

A record vote was requested.

The motion to table prevailed by (Record 313): 97 Yeas, 45 Nays, 1 Present, not voting.

Yeas — Allen; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eiland; Eissler; Elkins; Ellis; Farabee; Flores; Flynn; Gattis; Geren; Goodman; Griggs; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Homer; Hope; Howard; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Madden; Marchant; McCall; McReynolds; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pickett; Pitts; Quintanilla; Reyna; Ritter; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Nays — Alonzo; Burnam; Canales; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Farrar; Gallego; Garza; Giddings; Guillen; Hochberg; Hodge; Hopson; Jones, J.; Lewis; Luna; Mabry; Martinez Fischer; McClendon; Menendez; Moreno, J.; Moreno, P.; Naishtat; Oliveira; Olivo; Peña; Puente; Raymond; Riddle; Rodriguez; Rose; Solis; Talton; Thompson; Turner; Uresti; Villarreal; Wise.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Goolsby; Isett; Wilson.

Absent — Grusendorf; Noriega; Telford.

STATEMENT OF VOTE

When Record No. 313 was taken, I was in the house but away from my desk. I would have voted present, not voting.

Noriega

CSHB 1567 - STATMENT OF LEGISLATIVE INTENT

REPRESENTATIVE DUNNAM: Mr. Bonnen, we were struggling a little earlier to figure out what the distinction was with the three rivers that were excluded from the opportunity to have this facility in counties that were joining those rivers. What is the rationale?

REPRESENTATIVE BONNEN: The rationale very clearly is that the only two rivers to drain into the Rio Grande River are the Devil's River and the Pecos River, and so that would then put a problem in our agreement—the La Paz Agreement we have with Mexico, and certainly international agreements are a great significance and importance to the State of Texas and would probably be considered of greater priority than agreements that we may have between other states.

DUNNAM: Okay, and that is because of the pollution clause in the La Paz Agreement?

BONNEN: Yes, I believe it is.

REMARKS ORDERED PRINTED

Representative Dunnam moved to print remarks between Representative Dunnam and Representative Chisum and between Representative Dunnam and Representative Bonnen.

The motion prevailed without objection.

CSHB 1567 - AMENDMENTS LIMITED

Representative Burnam moved to limit amendments to **CSHB 1567** to those pending on the speaker's desk.

The motion prevailed without objection.

Amendment No. 18

Representative Heflin offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** as follows:

- (1) On page 16, line 26, strike "\$500,000" and substitute "\$1 million".
- (2) On page 17, line 10, strike "\$500,000" and substitute "\$1 million".

Amendment No. 18 was withdrawn.

Amendment No. 19

Representative Gallego offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** on page 26, between lines 6 and 7 by inserting the following:

Sec. 401.2375. APPROVAL OF COUNTIES REQUIRED. The department may not issue a draft license under Section 401.238 unless the voters in the county in which the compact waste disposal facility is proposed to be located and the voters in each county adjoining the county in which the facility is proposed to be located by referendum approve the establishment of the facility in the proposed county.

Representative West moved to table Amendment No. 19.

The motion to table prevailed.

Amendment No. 20

Representative Burnam offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** on page 28, line 25, by striking "may" and substituting "shall".

Amendment No. 20 was withdrawn.

CSHB 1567 - POINT OF ORDER

Representative Burnam raised a point of order against further consideration of **CSHB 1567** under Rule 8, Section 10(b) of the House Rules and Article III, Section 56 of the Texas Constitution, on the grounds that the bill is improperly limited to one or more political subdivisions by means of an artificial device.

The speaker overruled the point of order, speaking as follows:

Representative Burnam raises a point of order against further consideration of **CSHB 1567** under Rule 8, Section 10(b), and Article III, Section 56, Texas Constitution, in that the bill is improperly limited to one or more political subdivisions by means of an artificial device.

Section 401.271, Health & Safety Code, as added by Section 4 of the bill, limits the permissible locations of a waste facility, specifically prohibiting the issuance of a license for a site that meets one of five specified criteria. Rule 8, Section 10(b), expressly permits consideration of a bill with such a classification scheme if the classification criteria bears a reasonable relationship to the purpose of the proposed bill.

The point of order challenges the third criteria, excluding from the possible locations for the site counties adjoining specified river segments, which are Devil's River and the Upper and Lower Pecos Rivers. After consultation with the committee chair, the chair finds that those rivers are excluded as the only rivers feeding into the Rio Grande, which is covered by the La Paz Treaty. Exclusion of those counties is reasonable considering the international implications of the possibility of the waste site affecting that river.

Accordingly, the point of order is respectfully overruled.

CSHB 1567 - PARLIAMENTARY INQUIRY

REPRESENTATIVE BURNAM: With all due respect, are you aware that the La Paz Agreement is a specific distance from the river and doesn't have anything to do with the tributary rivers in question?

MR. SPEAKER: Without doubting that, these are still the only two rivers that feed into the Rio Grande.

BURNAM: I'm sorry. Would you repeat the answer?

MR. SPEAKER: Without doubting that, Mr. Burnam, these are the only two rivers that feed into the Rio Grande.

BURNAM: Right, but the status of the rivers, except for the part of the river that falls within the mileage distance from the Rio Grande is the only portion of the two rivers that applies—that the La Paz Agreement applies—and that was my question.

MR. SPEAKER: That all may be true, Mr. Burnam, but the ruling still is that the two rivers are the only two that flow into the Rio Grande, and that makes the classification reasonable.

REMARKS ORDERED PRINTED

Representative Burnam moved to print remarks between Speaker Craddick and Representative Burnam.

The motion prevailed without objection.

Amendment No. 21

Representatives Talton and Baxter offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** as follows:

(1) On page 28 strike lines 11 to 27 and substitute:

Sec. 401.241. POSTCLOSURE CONTINGENCY FEE AND BOND. (a) The department annually shall collect from the compact waste disposal facility license holder a fee to be used to address and prevent unplanned events that pose a risk to public health and safety that occur after the compact waste disposal facility has been closed and decommissioned.

(b) The department by rule shall set the fee under Subsection (a) so that the aggregate amount of money in the low-level radioactive waste fund, including interest earned on the fees and payments from party states, will be \$100 million on the 35th anniversary of the date the license is issued under this subchapter. To the extent possible, the department shall ensure that annual fees collected under Subsection (a) are approximately equal.

(c) The department shall deposit a fee collected under Subsection (a) to the credit of the low-level radioactive waste fund.

(d) The department shall require the license holder annually to post a bond to insure against closure and decommissioning of the compact waste disposal facility before the amount of money in the low-level radioactive waste fund reaches \$100 million. A bond under this subsection must be in an amount that, when combined with the amount in the low-level radioactive waste fund, is \$100 million.

Sec. 401.2415. LIABILITY INSURANCE. The department shall require the compact waste disposal facility license holder to carry liability insurance.

(2) Strike SECTION 8 of the bill and insert the following:

SECTION 8. Section 402.275, Health and Safety Code, is transferred to Subchapter F, Chapter 401, Health and Safety Code, renumbered as Section 401.249, and amended to read as follows:

Sec. 401.249 [402.275]. LOW-LEVEL RADIOACTIVE WASTE FUND.

(a) The low-level radioactive waste fund is a trust fund outside [in] the state treasury held by the comptroller as trustee.

(b) The low-level radioactive waste fund is an interest-bearing fund. Interest earned on money in the fund shall be deposited to the credit of the fund.

(c) The low-level radioactive waste fund consists of:

(1) postclosure contingency fees collected under Section 401.241; and

(2) payments [Money received by the authority, including waste disposal fees, planning and implementation fees, surcharges on planning and implementation fees, processing and packaging fees, civil penalties, payments] made by a party state to a low-level radioactive waste compact entered into under Section 401.248(b) [402.219(e), and other receipts collected by the authority under this chapter shall be deposited to the credit of the low level radioactive waste fund].

(d) Money [Except as provided by Subsection (f), money] in the low-level radioactive waste fund may be used only to address and prevent unplanned events that pose a risk to public health and safety that may occur after decommissioning and closure of the compact waste disposal facility [pay:

[1) operating and maintenance costs of the authority;

[2) future costs of decommissioning, closing, and postclosure maintenance and surveillance of the disposal site;

[3) licensing fees and to provide security required by the commission;

[4) money judgments rendered against the authority that are directed by a court of this state to be paid from this fund;

[5) expenses associated with implementation of the rangeland and wildlife management plan;

[6) funds for local public projects under Subchapter I;

[7) debt service and necessary fees and charges, including insurance premiums and similar costs, associated with the issuance and payment of bonds under Subchapter K; and

[8) expenses for any other purpose under this chapter].

(e) Section 403.095, Government Code, does not apply to the low-level radioactive waste fund. [A payment for debt service and related costs under Subsection (d)(7) has priority for payment from the low level radioactive waste fund over a payment for another expense authorized by Subsection (d).]

(f) Every six years beginning on the third even-numbered year after the date the license is issued under this subchapter, the department shall evaluate the low-level radioactive waste fund to determine whether the fund will be adequate to accomplish the objectives under Subsection (d). The department shall report the results of the evaluation to the governor, lieutenant governor, and speaker of the house of representatives on or before December 15 of the year in which the evaluation is conducted. [The authority may transfer money from the low level radioactive waste fund to the radiation and perpetual care fund to make payments required by the commission under Section 401.303.]

Representative West moved to table Amendment No. 21.

A record vote was requested.

The motion to table prevailed by (Record 314): 87 Yeas, 52 Nays, 1 Present, not voting.

Yeas — Allen; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eiland; Eissler; Flores; Flynn; Gattis; Geren; Griggs; Grusendorf; Gutierrez; Haggerty; Hamilton;

Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Homer; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Lewis; Madden; Marchant; McCall; McReynolds; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Quintanilla; Reyna; Seaman; Smith, T.; Smith, W.; Solomons; Stick; Swinford; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Nays — Alonzo; Brown, B.; Brown, F.; Burnam; Canales; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Elkins; Ellis; Farabee; Farrar; Gallego; Garza; Giddings; Guillen; Hochberg; Hodge; Hope; Hopson; Jones, J.; Luna; Mabry; Martinez Fischer; McClendon; Menendez; Moreno, J.; Moreno, P.; Naishtat; Oliveira; Olivo; Peña; Pickett; Puente; Raymond; Riddle; Ritter; Rodriguez; Rose; Solis; Talton; Thompson; Turner; Uresti; Villarreal; Wise.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Goolsby; Isett; Wilson.

Absent — Goodman; Howard; Laney; Noriega; Smithee; Telford.

STATEMENT OF VOTE

I was shown voting yes on Record No. 314. I intended to vote no.

Baxter

Amendment No. 22

Representative Canales offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** as follows:

(1) On page 29, line 1, between "WASTE." and "The", insert "(a)".

(2) On page 29, between lines 9 and 10, insert:

(b) If the department finds that the compact waste disposal facility license holder has violated this chapter or any department rule in a manner that may endanger public health or safety, the license holder may not accept low-level radioactive waste at either the compact waste disposal facility or the federal facility waste disposal facility until the department finds that the license holder is in compliance with the statute or rule found to be violated.

Amendment No. 22 was adopted without objection.

Amendment No. 23

Representative W. Smith offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** as follows:

(1) On pages 33-34, strike page 33, line 27 and page 34, line 1 and substitute the following:

"[authority] to recover costs of operating and maintaining the compact waste disposal facility and a reasonable profit on the operation of that facility [maintenance costs];".

(2) On page 34, at the beginning of line 5, insert "compact waste disposal facility portion of the".

(3) On page 34, strike lines 13 and 14 and substitute the following:

"(5) provide an amount necessary to pay compact waste disposal facility licensing fees, to pay compact waste disposal facility fees set by rule or statute, and to provide security for the compact waste disposal facility as required".

Amendment No. 23 was adopted without objection.

Amendment No. 24

Representative Canales offered the following amendment to **CSHB 1567**:

(1) Amend **CSHB 1567** by inserting the appropriately numbered SECTION to read as follows:

SECTION _____. Amend Chapter 401, Health and Safety Code, by adding a new appropriately numbered Section to read as follows:

Sec. _____. NUCLEAR WEAPONS WASTE. Radioactive waste derived from the production of nuclear weapons shall not be accepted by the compact waste site or the federal waste site.

(2) Renumber the subsequent SECTIONS accordingly.

Representative Chisum moved to table Amendment No. 24.

(Swinford in the chair)

A record vote was requested.

The motion to table prevailed by (Record 315): 93 Yeas, 41 Nays, 2 Present, not voting.

Yeas — Allen; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eiland; Eissler; Elkins; Farabee; Flores; Flynn; Gattis; Geren; Griggs; Grusendorf; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Homer; Howard; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Lewis; Madden; Marchant; McCall; McReynolds; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Quintanilla; Reyna; Riddle; Ritter; Seaman; Smith, T.; Smith, W.; Solomons; Stick; Talton; Taylor; Van Arsdale; West; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Nays — Alonzo; Burnam; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Ellis; Farrar; Gallego; Garza; Giddings; Guillen; Hochberg; Hodge; Hopson; Jones, J.; Luna; Mabry; Martinez Fischer; McClendon; Menendez; Moreno, P.; Naishtat; Oliveira; Olivo; Peña; Pickett; Puente; Raymond; Rodriguez; Rose; Thompson; Truitt; Turner; Uresti; Villarreal; Wise.

Present, not voting — Mr. Speaker; Swinford(C).

Absent, Excused — Goolsby; Isett; Wilson.

Absent — Canales; Edwards; Goodman; Hope; Laney; Moreno, J.; Noriega; Smithee; Solis; Telford.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

CSHB 1567 - (consideration continued)

Amendment No. 25

Representative Garza offered the following amendment to **CSHB 1567**:

(1) Amend **CSHB 1567** by inserting the appropriately numbered SECTION to read as follows:

SECTION _____. Amendment Chapter 401, Health and Safety Code, by adding a new Sec. 401.251 to read as follows:

Sec. 401.251. RADIOACTIVE WASTE FEE. (a) There is a fee imposed on radioactive waste received at a radioactive waste facility, as provided in this chapter.

(b) The fee is equal to the sum of the following amounts:

(1) 5% of the gross receipts received from the disposal of Class A radioactive waste; and

(2) 10% of the gross receipts received from the disposal of Class B & C radioactive waste;

(c) The comptroller shall deposit the fee revenue collected under this section to an account that may only be used for educational purposes.

(2) Renumber the subsequent SECTIONS accordingly.

Amendment No. 25 was withdrawn.

CSHB 1567 - STATEMENT OF LEGISLATIVE INTENT

Amendment No. 25

REPRESENTATIVE GARZA: Mr. Speaker, members, what this amendment does is it imposes a radioactive waste fee. It imposes a fee of five percent of the gross receipts received from the disposal of Class A radioactive waste and 10 percent of Classes B and C. And what I did, I actually called the Atlantic Interstate Low-Level Radioactive Waste Management Compact Commission, and I spoke with their executive director, Max Batavia. He said that what they do, they have a similar site to the one that we are going to impose, and they impose a fee, and the state generates revenues per pound of waste that comes into their state. They have a compact similar to ours, and their compact encompasses three states, the states of Connecticut, New Jersey, and South Carolina, and the site is actually in South Carolina. So, Mr. Speaker, members, I move passage.

REPRESENTATIVE WEST: Mr. Chairman, members, this is something that we worked long and hard on, to try to come up with a suitable fee. We've studied it and I have pledged to Mr. Garza that we will continue to work on this and that we

will work on it through the senate to see if we can make this a constitutionally acceptable fee, because I think it's something that would help us in our shortfall. Mr. Chairman, I respectfully have to say, I move to table.

GARZA: Mr. Speaker, members, this is an issue that we are going to have to look at. It just makes good sense. If there is another facility in the United States that has a similar facility that imposes a fee that the state generates revenue, it just makes good sense for us to impose these same kind of fees. I am working with the author, Representative West, and I will respectfully pull down my amendment with the commitment that we are going to work on it in the senate and make sure that it is a constitutional fee before we adopt it.

(Speaker in the chair)

Amendment No. 26

Representative Coleman offered the following amendment to **CSHB 1567**:

Amend **CSHB 1567** on page 28 as follows:

Insert new Sec. 401.241 and re-number subsequent sections appropriately.

Sec. 401.241. If no low-level radioactive waste disposal license is issued before the Barnwell, South Carolina low-level radioactive waste disposal site terminates access to Texas low-level radioactive waste generators, the low-level radioactive waste generated by medical and academic institutions in Texas shall be managed at one or both of the nuclear power plants in Texas.

Representative Chisum moved to table Amendment No. 26.

The motion to table prevailed.

A record vote was requested.

CSHB 1567, as amended, was passed to engrossment by (Record 316): 107 Yeas, 34 Nays, 1 Present, not voting.

Yeas — Allen; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Dunnam; Eiland; Eissler; Elkins; Ellis; Farabee; Flores; Flynn; Garza; Gattis; Geren; Giddings; Goodman; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Homer; Hope; Howard; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Madden; Marchant; McCall; McReynolds; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pickett; Pitts; Quintanilla; Reyna; Ritter; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Taylor; Uresti; Van Arsdale; West; Wise; Wohlgenuth; Wolens; Wong; Woolley; Zedler.

Nays — Alonzo; Burnam; Canales; Castro; Chavez; Coleman; Dukes; Dutton; Edwards; Farrar; Gallego; Hochberg; Hodge; Hopson; Jones, J.; Mabry; Martinez Fischer; McClendon; Moreno, J.; Moreno, P.; Naishtat; Oliveira; Olivo; Peña; Puente; Raymond; Riddle; Rodriguez; Rose; Talton; Thompson; Truitt; Turner; Villarreal.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Goolsby; Isett; Wilson.

Absent — Davis, Y.; Menendez; Noriega; Telford.

STATEMENTS OF VOTE

When Record No. 316 was taken, my vote failed to register. I would have voted no.

Menendez

When Record No. 316 was taken, I was in the house but away from my desk. I would have voted yes.

Telford

COMMITTEES GRANTED PERMISSION TO MEET

Pursuant to House Rule 4, Section 9, Representative Geren requested permission for those house committees and subcommittees that are scheduled to meet this afternoon to meet while the house is in session.

Permission to meet was granted without objection.

PRINTING RULE SUSPENDED

Representative Giddings moved to suspend House Rule 12, Section 1(a)(1)(A) to permit **HB 1156** to be sent to the senate in the form of engrossed riders in lieu of a full engrossment.

The motion prevailed without objection.

CSHB 1567 - REMARKS ORDERED PRINTED

Representative Garza moved to print remarks between Representative West and Representative Garza regarding Amendment No. 25.

The motion prevailed without objection.

FIVE DAY POSTING RULE SUSPENDED

Representative Smithee moved to suspend the five day posting rule to allow the Committee on Insurance to consider **HB 1178** and **HB 2701**.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Agriculture and Livestock, upon adjournment today, Desk 128, for a formal meeting, to consider pending business.

Corrections, will reconvene at 6:30 p.m.

Law Enforcement, upon adjournment today, Desk 56, for a formal meeting.

FIVE DAY POSTING RULE SUSPENDED

Representative King moved to suspend the five day posting rule to allow the Committee on Regulated Industries to consider **HB 2121**.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

State Cultural and Recreational Resources, 6:30 p.m. today, E2.014, for a public hearing.

Business and Industry, upon adjournment today.

Local and Consent Calendars, upon adjournment today, E2.024, for a formal meeting, to set the local and consent calendar.

Public Education, upon adjournment today, to consider last week's and this week's posted bills.

Calendars, upon adjournment today, speakers committee room, for a formal meeting.

FIVE DAY POSTING RULE SUSPENDED

Representative Lewis moved to suspend the five day posting rule to allow the Committee on County Affairs to consider **SJR 45**.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Government Reform, will reconvene at 6:45 p.m. today, E1.026, for a formal meeting, to consider posted bills.

FIVE DAY POSTING RULE SUSPENDED

Representative Driver moved to suspend the five day posting rule to allow the Committee on Transportation to consider **HB 3545**.

The motion prevailed without objection.

PROVIDING FOR ADJOURNMENT

Representative Raymond moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 10 a.m. tomorrow in memory of Nilda A. Yzaguirre Canales of Benavides.

The motion prevailed without objection.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Hughes in the chair)

ADJOURNMENT

In accordance with a previous motion, the house, at 6:30 p.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 3592 (By West), Relating to the creation of the Downtown Midland Management District; providing authority to impose taxes and issue bonds.

To Urban Affairs.

SB 51 to Law Enforcement.

SB 59 to Human Services.

SB 95 to State Affairs.

SB 100 to Human Services.

SB 139 to Transportation.

SB 176 to Law Enforcement.

SB 234 to Local Government Ways and Means.

SB 249 to Transportation.

SB 287 to State Affairs.

SB 325 to Judicial Affairs.

SB 401 to Public Health.

SB 420 to County Affairs.

SB 594 to Public Health.

SB 600 to Criminal Jurisprudence.

- SB 606 to Environmental Regulation.
- SB 613 to Law Enforcement.
- SB 631 to Criminal Jurisprudence.
- SB 640 to Land and Resource Management.
- SB 643 to Natural Resources.
- SB 644 to Agriculture and Livestock.
- SB 648 to Licensing and Administrative Procedures.
- SB 703 to Elections.
- SB 704 to Urban Affairs.
- SB 719 to Defense Affairs and State-Federal Relations.
- SB 720 to Defense Affairs and State-Federal Relations.
- SB 726 to Local Government Ways and Means.
- SB 733 to County Affairs.
- SB 745 to Natural Resources.
- SB 775 to Government Reform.
- SB 821 to County Affairs.
- SB 827 to Criminal Jurisprudence.
- SB 833 to Civil Practices.
- SB 842 to Public Health.
- SB 855 to Licensing and Administrative Procedures.
- SB 880 to Corrections.
- SB 917 to Corrections.
- SB 940 to Transportation.
- SB 957 to Defense Affairs and State-Federal Relations.
- SB 984 to Public Health.
- SB 985 to Defense Affairs and State-Federal Relations.
- SB 988 to Business and Industry.
- SB 1005 to State Affairs.
- SB 1013 to Licensing and Administrative Procedures.
- SB 1015 to State Affairs.
- SB 1022 to County Affairs.
- SB 1050 to Human Services.
- SB 1051 to Human Services.
- SB 1070 to Economic Development.

- SB 1071** to Economic Development.
- SB 1072** to Economic Development.
- SB 1084** to Border and International Affairs.
- SB 1087** to State Affairs.
- SB 1091** to Environmental Regulation.
- SB 1145** to Public Health.
- SB 1147** to Licensing and Administrative Procedures.
- SB 1224** to Criminal Jurisprudence.
- SB 1237** to Human Services.
- SB 1238** to Business and Industry.
- SB 1281** to Insurance.
- SB 1282** to Business and Industry.
- SB 1288** to Defense Affairs and State-Federal Relations.
- SB 1331** to State Affairs.
- SB 1356** to Public Health.
- SB 1373** to Public Education.
- SB 1454** to Public Health.
- SB 1484** to Energy Resources.
- SB 1526** to Financial Institutions.
- SB 1577** to Financial Institutions.
- SB 1578** to Financial Institutions.
- SB 1580** to Transportation.
- SB 1603** to Land and Resource Management.
- SB 1624** to Public Education.
- SB 1666** to Financial Institutions.
- SB 1667** to Financial Institutions.
- SB 1668** to Financial Institutions.
- SB 1705** to Local Government Ways and Means.
- SB 1714** to Transportation.
- SB 1765** to Land and Resource Management.
- SB 1877** to Natural Resources.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

Senate List No. 17**SCR 43, SCR 44****MESSAGES FROM THE SENATE**

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Tuesday, April 22, 2003

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HCR 85 Morrison SPONSOR: Deuell
Saluting volunteers in the State of Texas.

SB 521 Staples
Relating to the acquisition and regulation of manufactured homes; providing penalties.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Tuesday, April 22, 2003 - 2

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 60 Zaffirini
Relating to the provision of public mental health and related services for certain children who need the services of more than one agency.

SB 718 Madla
Relating to the practice and regulatory environment for registered nurses and licensed vocational nurses.

SB 732 Brimer
Relating to discounts or other forms of pricing flexibility for telecommunications services.

SB 876 Duncan
Relating to commissions on certain negotiated bond sales.

SB 938 Barrientos
Relating to enforcement of veteran's employment preferences.

SB 966 Averitt
Relating to the comptroller entering into an agreement with a credit or debit card issuer for the benefit of public schools.

SB 1094 Duncan
Relating to the creation of a task force to evaluate matters regarding water conservation.

SB 1488 Ogden
Relating to the misconduct of a person who is employed by or is seeking employment by a school district, open-enrollment charter school, regional education service center, or shared services arrangement.

SB 1510 Zaffirini
Relating to monitoring compliance of public school bilingual education and special language programs.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Tuesday, April 22, 2003 - 3

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 277 Ellis, Rodney
Relating to the continuation and functions of the Texas Board of Professional Engineers and to the regulation of the practice of engineering.

SB 286

Shapleigh

Relating to the continuation and functions of the Texas Higher Education Coordinating Board.

SB 422

Bivins

Relating to requirements regarding motor vehicle insurance and proof of financial responsibility; providing penalties.

Respectfully,

Patsy Spaw

Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

April 16

Business and Industry - **HB 2200, HB 3168**

Corrections - **HB 2668, HB 2895, HB 3335**

Defense Affairs and State-Federal Relations - **HB 2385**

Economic Development - **HB 453, HB 826, HB 1496, HB 1675, HB 2172, HB 2277, HB 2278, HB 2768, HB 2912, HB 3179, HB 3324**

Elections - **HB 1602, HB 1695, HB 1697, HB 1701, HB 1991, HB 2183, HB 2297, HB 2636, HB 2914, HB 3096, HB 3149, HJR 59, HJR 84**

Energy Resources - **HB 1192, HB 1194, HB 1512, HB 1575, HB 2613, HB 2846**

Government Reform - **HB 1318, HB 1769, HB 3042, HB 3043, HB 3045**

Human Services - **SB 261, SB 579**

Insurance - **SB 418**

Land and Resource Management - **HB 2212, HB 2249, HB 2334, SB 446**

Natural Resources - **HB 2661, HB 2663**

Pensions and Investments - **HB 3456**

State Affairs - **HB 15, HB 246, HB 1027, HB 1796, HB 2032**

Transportation - **HB 659, HB 1296, HB 1439, HB 1806, HB 2691, HB 3184, HB 3185, HB 3417**

April 17

Agriculture and Livestock - **HB 2785**

Criminal Jurisprudence - **HB 1426, HB 2525**

Environmental Regulation - **HB 1707, HB 1791, HB 2529, HB 2875, HB 2940, HB 3164**

Licensing and Administrative Procedures - **HB 1232, HB 1615, HB 1620, HB 2112**

Local Government Ways and Means - **HB 179, HB 396, HB 837, HB 2961, HB 3075**

Natural Resources - **HB 1534, HB 2074, HB 2348, HB 2660, HB 2665, HB 3229, HB 3556**

State Affairs - **HB 771, HB 1109, HB 1904, HB 2033, HB 2081, HB 2411, HB 2485**

Transportation - **HB 1527, HB 2377**

Urban Affairs - **HB 397, HB 2642, HB 3021, HB 3236**

April 21

Appropriations - **HB 2292**

ENGROSSED

April 17 - HB 7, HB 3175

SENT TO THE GOVERNOR

April 16 - HCR 104, HCR 118

April 17 - HCR 200

RECOMMENDATIONS FILED WITH THE SPEAKER

April 16 - HB 2231, HB 2533, HB 3229, HB 3555, HB 3562, HB 3565, HB 3566

SIGNED BY THE GOVERNOR

April 17 - HCR 40, HCR 54, HCR 55, HCR 72, HCR 104, HCR 110, HCR 111, HCR 112, HCR 113, HCR 114, HCR 115, HCR 116, HCR 117, HCR 118, HCR 119, HCR 120, HCR 121, HCR 122, HCR 195, HCR 200